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10/698,428

11/03/2003

Larry S. Poole JR.

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02/09/2006

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EXAMINER

HESS, DOUGLAS A

ART UNIT

PAPER NUMBER

3651

DATE MAILED: 02/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/698,428

Applicant(s)

POOLE, LARRY S.

Examiner

Douglas A. Hess

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-18 is/are allowed.
- 6) ☐ Claim(s) 1-4, 6, 7, 11, 13, 14, 19 and 20 is/are rejected.
- 7) ☐ Claim(s) 5, 8-10 and 12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11/03/03 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Szostek USP 3,463,309.

See the attached marked up cover sheet of Szostek depicting the claimed features.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Szostek (above) in view of Tappenden USP 5,645,203.

Szostek teaches the claimed invention as outline above, except for a brochure attached to it. Tappenden teaches a business card dispenser 18 with a brochure 12 attached. It would have been obvious to one of ordinary skill in the art at the time the invention was made in order to better attract customers to receive the business cards from the holder.

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5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Szostek in view of Marks USP 3,261,126.

Szostek teaches the claimed invention except for the peel off, rear adhesive backing of claim 6. To provide that the holder of Szostek has a peel off backing to expose an adhesive layer for mounting of the holder, would be obvious to one of ordinary skill in the art, in view of the teaching of Marks use of a peel off backing to an adhesive layer 12 in order to provide a mounting means in certain environments.

6. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Szostek in view of Thorp USP 5,947,304.

Szostek teaches the claimed invention except for the magnetic mounting of claim 7. Thorp teaches a magnetic layer 20 for mounting his device. It would have been an obvious to one of ordinary skill in the art at the time the invention was made as to the type of well known mounting means used for attaching a business card holder to a display surface area. The mere selection of one of many well known adhesive or mounting options leaves the examiner to take Official Notice of functional equivalence. The selection of any of these well known equivalents does not provide a patentable departure.

7. Claims 11 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Szostek in view of Wolff US Design Patent 391,990.

Szostek teaches the claimed invention except for the thumb cutout of claims 11 and 14. Wolff teaches a cutout on his dispenser. It would have been obvious to one having ordinary skill

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in the art at the time the invention was made to utilize a cutout as taught by Wolff on the device of Szostek in order to provide a better opening to access the cards in the holder of Szostek.

8. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Szostek.

Szostek teaches the claimed invention except for the specific type of attachment such as a pin or thumbtack as claimed in 19 and 20. It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize a pin or tack to mount the device of Szostek, since the examiner takes Official Notice of the equivalence of many known mounting means and the selection of a tack or pin to mount the holder does not provide a patentable departure over the device of Szostek.

#### ***Allowable Subject Matter***

9. Claims 5, 8-10, and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. Claims 15-18 are allowed.

#### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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12. Applicant's arguments with respect to the rejected claims have been considered but are moot in view of the new ground(s) of rejection.

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas A. Hess whose telephone number is 571-272-6915. The examiner can normally be reached on M-Thurs 5:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on 571-272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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15. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Douglas A Hess  
Primary Examiner  
Art Unit 3651

2-6-06

DAH  
February 6, 2006